

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 914 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJ.

Versus

NATVARBHAI KHIMABHAI

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Appearance:

MR.S.T.MEHTA,ADDL.PUBLIC PROSECUTOR for Appellant.  
SERVED for Respondent No. 1, 2

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CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 05/08/96

ORAL JUDGEMENT

This is an acquittal appeal under section 378 of the Code of Criminal Procedure, 1973 by the State against the order of acquittal passed by the learned Metropolitan Magistrate, Court No.4, Ahmedabad on July 25,1990 in Criminal Case No.1763/86.

The respondent-accused were tried for the offences punishable under sections 323,324,504 and 114 of the Indian Penal Code. The respondent-accused were alleged to have voluntarily caused hurt by steel pipe at about 7.15 p.m. on March 18,1986, to the complainant Liliben. They were also alleged to have caused injuries to P.W.2 Bhavanbhai and P.W.3 Hiraben. They also criminally intimidated the complainant. Both the accused persons are thus alleged to have committed offences punishable under sections 323,324 read with section 114 of the Indian Penal Code. The accused persons pleaded not guilty to the charge when charge Exh.3 was read over to them and claimed to be tried.

The learned Magistrate having recorded the evidence of the prosecution-witnesses and after appreciating the evidence and other materials on record, acquitted the accused persons, as aforesaid.

Mr.S.T.Mehta, learned Addl. Public Prosecutor, appearing for the appellant-State has taken me through the relevant record and the impugned judgment. Mr.Mehta invited my attention to the evidence of P.W.4, Dr. Pradip Babubhai, whose evidence is recorded at Exh.9. Dr.Pradip Babubhai examined the complainant Liliben Bhavanbhai and other two prosecution witnesses and issued medical certificates at Exhs.10,11 and 12, respectively. Considering the evidence of P.W.4,Dr.Pradip Babubhai Exh.9 read with the evidence of the complainant, the learned Magistrate has rightly acquitted the accused persons having regard to the further statements of the accused persons recorded under section 313 of the Code of Criminal Procedure. No material infirmity has been pointed out so as to warrant interference in the impugned order of acquittal recorded by the learned Magistrate.

It is settled law that when two views are possible on a given set of facts and evidence, the view in favour of the accused has to be adopted. High Court would normally be slow in disturbing the order of acquittal, unless the perverse finding or conclusion is pointed out. Nothing is shown so as to take other view in the matter, disturbing the order of acquittal.

In the above view of the facts and circumstances of the case, the appeal fails and is dismissed.

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